BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the matter of:	
Numbering Resource Optimization	CC Docket 99-200
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	CC Docket No. 96-98

PETITION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND OF THE PEOPLE OF THE STATE OF CALIFORNIA FOR AUTHORITY TO IMPLEMENT TECHNOLOGY-SPECIFIC OVERLAY AREA CODES AND REQUEST FOR EXPEDITED TREATMENT

The California Public Utilities Commission and the People of the State of California (California or CPUC) submit to the Federal Communications Commission (FCC or Commission) this Petition for Authority to Implement Technology-Specific Overlay Area Codes. Specifically, the CPUC requests that the Commission authorize California to implement a technology-specific or specialized overlay (SO) in two specific geographic areas in southern California as discussed in detail below. Further, we request that the Commission afford expedited treatment to this petition, as two of the area codes involved in this request are nearing exhaust.

I. BACKGROUND

In the *Third Report and Order an Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200* (*Third Report & Order*), the FCC granted in part a prior CPUC petition seeking authority to implement a technology-specific overlay.[1] Specifically, the FCC decided to "allow state commissions seeking to implement SOs to request delegated authority to do so on a case-by-case basis".[2] The Commission set forth critieria to be addressed in a state petition for such authority, and we address those criteria below.

II. CRITERIA FOR SPECIALIZED OVERLAYS

A. Technologies and Services

The CPUC proposes to include several different types of services in the two SOs. First, we propose to place in the SOs, on a prospective basis only, all "transparent" or "non-geographic" numbers that would otherwise be assigned to the underlying NPAs. These numbers include those used for services such as On-Star and E-fax, as well as numbers that would be assigned to modems or fax machines. The assignment of transparent numbers to the SOs would be permanent; that is, consistent with the *Third Report & Order*, the CPUC plans to "include and retain [in the SO] non-geographic based services as a means to further reduce the demand" in the underlying area code(s).[3] We do not propose to include in the SOs numbers that would be assigned to modems or

[1] See Petition of the CPUC and of the People of the State of California for Waiver, filed April 26, 1999.
[2] *Third Report & Order*, ¶¶ 67, 79.
[3] *Third Report &Order*, ¶ 82.

fax machines used by residential customers. Further, we propose that a business must have a minimum of fifty access lines for the serving carrier to be required to place modem or fax numbers for the business into an SO.[4]

Since this approach is new, both for the CPUC and for the FCC, California anticipates that numerous questions pertaining to the technical details of implementing the SOs will arise as we plan for this change. For example, we will need to address and resolve specific concerns the carriers raise regarding assignment of transparent numbers in the new SOs. The CPUC requests that the FCC grant us some leeway in resolving these questions as we cannot today anticipate every issue nor propose a solution to unknown problems. We note that CPUC staff presented the broad proposal contained here to the two largest incumbent local exchange carriers in California, as well as to a small group of competitive local carriers, representatives of several paging companies, and representatives of several wireless carriers as well as the California Cellular Carriers Association. Based on their responses, we believe that we can work with the carriers to resolve implementation issues as they develop.

In addition, the CPUC proposes to move the existing NXX codes held by all wireless carriers except for paging companies, from the 310 and 909 numbering plan areas (NPAs) to the SO. This proposal would involve the move of approximately 149

[4] CPUC staff have been informed by ILEC technical staff that ATMs and POS terminals often do not have a separate number assigned for each machine or device. Therefore, the extent to which ATMs or POS terminals could be placed in an SO would depend on how the equipment is provisioned by the respective serving carrier. The ILEC technical staff also have informed us that they can manage the logistics of requiring placement of these numbers into an SO by adding a line item to the form business service representatives follow when a business customer initiates or augments service.

NXX codes from the 310 area code to the SO covering the 310, 213, 323, and 562 NPAs. In addition, roughly 172 NXX codes from the 909 area code would move to the SO covering the 909, 714 and 949 area codes.[5] This would require customers with assigned numbers included in those NXX codes currently in the 310 and 909 NPAs to undergo an area code change only; the plan would not require those customers to change their seven-digit number. This issue is addressed further in Section II.E, *infra*. The CPUC proposes to exempt NXX codes currently held by paging companies from the transition to the SOs. The CPUC does, however, propose to include paging company customers in the SO on a prospective basis.

Thus, to summarize, existing NXX codes in the 310 and 909 NPAs, held by wireless carriers except for paging companies, would move to the SO, requiring those customers to undergo a change of area code. All new numbers assigned to wireless carriers, including to paging carriers, would be assigned in the SO until the SOs sunset.[6]

B. Geographic Area to Be Covered

Both of the SOs proposed in southern California would cover multiple underlying area codes. Specifically, one SO would be implemented over 310/323/213/562 area codes and the other SO would be implemented over 909/714/949 area codes. Area code relief is greatly needed in the 310 and 909 NPAs because they are forecasted to exhaust within one year.

[5] The figures of 149 wireless codes in the 310 NPA and 172 in the 909 NPA likely will change by the time the SO is implemented as carriers continue to draw NXX codes in those two NPAs.

[6] The duration of the SO is addressed in Section II.D, *infra*.

In order to optimize telephone number usage and extend the life of as many area codes as possible, both of the SOs California proposes would cover two or more area codes instead of a single area code. The Commission, *in its Third Report and Order*, noted that SOs covering more than one area code are superior for optimizing number use because they would reduce the demand for numbers in multiple area codes. In addition, the increased number of subscribers included in each SO would lead to better utilization of numbering resources in the SO.[7] The CPUC has prepared an analysis of the projected lives of the proposed SOs. These projections are based primarily on the demand forecasts that wireless carriers have reported in their August 2002 Numbering Resource Utilization/Forecast (NRUF) data.[8] With the implementation of the SOs, the life of the 310 would be extended, at a minimum, for a period of five years. The 909 NPA would be extended by five years based on the NRUF report. (See Attachments 1.) It is worth noting that wireline carrier demand forecasts for pools in California generally have run three to four times higher than the quantity of 1,000 blocks carriers actually draw from the pool. We anticipate that the same may prove to be true for wireless carriers, but perhaps not to the same degree.

The expected exhaust dates for the NPAs to be covered by the two SOs vary significantly. Attachment 2 shows a list of the area codes to be included, and their current projected exhaust dates. California is mindful of the Commission's preference

[7] *Id.* at ¶ 83.

[8] The CPUC refers here only to aggregate wireless carrier forecast data. No disaggregated carrier data is referenced here.

not to see new area codes created without any genuine need for new numbers, a preference that the CPUC shares. At the same time, we suggest that including those NPAs projected to exhaust later in the group of NPAs covered by a new SO would not unduly inconvenience customers in those area codes, and the inventory of numbers contained in those NPAs will not be wasted. During the period that only wireless carriers and carriers assigning non-geographic numbers could obtain NXX codes in the SOs, wireline carriers would continue to draw numbers from the underlying NPAs. In addition, upon the sunset of the SO, all carriers again would be able to draw numbers from the underlying NPAs. (See § II.C, *infra*.)

Finally, the CPUC proposes that the rate centers for the SO would match the rate centers for each of the underlying area codes. California believes that matching rate centers would avoid rating and routing problems, and associated billing problems that would arise if rate centers do not match.

C. Transitional SOs and When the SOs Will Be Implemented and Will Sunset

Both of the SOs would be implemented on a transitional basis. The Commission noted in the *Third Report and Order* that it prefers SOs to be transitional in nature because transitional SOs limit the potentially discriminatory effects associated with permanent SOs.[9] In light of the Commission's preference for transitional SOs, the CPUC's proposed SOs would last for a period of two years, commencing from the date the SOs open and not the date the FCC grants this petition, if it does. After the two-year

period, the overlays would convert to all-services overlays, meaning that all carriers, wireless and wireline, would be able to draw numbers from both the new overlay area codes and the existing underlying area codes.

D. Change of Area Code for Wireless Customers

In the *Third Report & Order*, the FCC discussed "take-backs", that is, "take-back" of numbers assigned to end users. Unfortunately, in that order, the Commission did not define a "take-back" of number(s).

As set forth in Section II.A, *supra*, the CPUC proposes to move from the 310 and 909 NPAs to the respective SO all existing customers of wireless providers except for customers of paging companies. This move would necessitate a change of area code only for existing wireless customers. The CPUC has understood a "take-back" to mean that the customer holding the number taken back must undergo a seven-digit number change. This could occur, for example, in the event of a boundary realignment as the means of providing area code relief. The customers who, in effect, move from one side of the area code boundary to the other not only have a new area code, but must take a new seven-digit number in the new area code.

In the SO proposal the CPUC offers, the wireless customers in the 310 and 909 NPAs would not be required to experience a seven-digit number change. Rather, only their area code would change either from 310 or 909 to the new SOs.[10] Consequently,

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[9] *Id.* at ¶ 84.

[10] When the CPUC began to implement an overlay area code in the Los Angeles metropolitan area in 1999, the overlay NPA was slated to be 424. We do not know at this point if that number is still in reserve for use in Southern California, or if NANPA would assign a different NPA.

California sees this as comparable to implementing an area code split, which would require all customers in the geographic area covered by the new NPA to take an area code change.[11] So far as the CPUC is aware, the FCC has never deemed an area code change necessitated by an NPA split to constitute a "take-back" of numbers. California recognizes that this may be a case of first impression. The CPUC asserts that it would not be rational to treat the area code change we propose for wireless customers in the 310 and 909 area codes as a "take-back" of numbers. Were the FCC to include an area code change in the definition of "take-back", all state commissions exercising delegated authority to implement new NPAs could no longer require wireless customers to change area codes, as doing so would henceforth mean mandating impermissible "take-backs". On multi-state conference calls run by the State Coordinating Group (SCG), state commission representatives have indicated that the vast majority of states exercising delegated authority to implement new NPAs do not allow wireless carriers to grandfather their NXX codes in the event of a split. California has been a notable exception, and recently, we have received comments on possible changes to our policy.

E. Ten-Digit Dialing

In the *Second Report and Order and Memorandum Opinion and Order* in Docket 96-98, the FCC established two conditions for states choosing to implement an all-services area code overlay. The condition relevant to this petition was the first of the

[11] The CPUC has had in effect for the past several years a policy allowing wireless carriers to grandfather their NXX codes in the existing NPA in the event of a split. NANPA has informed CPUC staff that in the years 1996 to 1999, when the number of NPAs in California almost doubled, going from 13 to 25, wireless carriers chose to grandfather their NXX codes in the existing NPA 98% of the time. Thus, wireless customers have been spared the expense and inconvenience of experiencing area code changes

two: "mandatory 10-digit local dialing by all customers between and within area codes in the area covered by the new code".[12] In the *Third Report & Order*, however, the Commission reached a different conclusion.

> Because we continue to believe that ubiquitous ten-digit dialing when an overlay is implemented would maximize numbering resource optimization, [footnote omitted] we favor SO proposals that include ten-digit dialing in the SO NPA we well as the underlying area code, in the same manner that ten-digit dialing is required when all-services overlays are implemented. . . . We, nevertheless, will not necessarily require ten-digit dialing with SOs at this time, at least not until we are better able to determine whether a temporary waiver of the ten-digit dialing requirement in any way increases the use and effectiveness of SOs.[13]

In light of this language, the CPUC seeks authority to implement a permanent seven-digit dialing requirement within area codes in the geographic areas covered by the overlays.[14] We do not believe ten-digit dialing would be necessary in either the SOs or the underlying area codes because the competitive concerns which prompted the Commission to adopt the ten-digit dialing requirement in 1996 have largely been abated over time.[15]

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while wireline customers in California have undergone many area code changes.

[12] *Second Report and Order and Memorandum Opinion and Order*, FCC 96-333, CC Docket 96-98, Released August 8, 1996, ¶ 286.

[13] *Third Report & Order*, ¶ 92.

[14] The CPUC recognizes the FCC's further statement that "it is not likely that requests for permanent waiver of the ten-digit dialing reqruiement, especially after a transitional SO is expanded to include all services, will be granted". (*Third Report & Order*, ¶ 92.) Nonetheless, the CPUC asks the Commission to weigh carefully the impact of the proposal put forth here for permanent seven-digit dialing on the public versus on the industry.

[15] The ten-digit dialing rule requires state commissions to introduce ten-digit dialing in the underlying area code(s) as well as the overlay area code upon when an overlay is implemented. (47 USC 52.19(c)(3)(ii).)

The FCC originally adopted the ten-digit dialing rule to ensure that competitors do not suffer any competitive disadvantages as a result of local dialing disparity.[16] The Commission noted that, without mandatory ten-digit dialing requirement, "all existing telephone users would remain in the old area code and dial seven digits to call others in that area code, while new users with the overlay code would have to dial ten digits to reach any customers in old code."[17] Hence, the Commission concluded that mandatory ten-digit dialing was necessary in order to create a level playing field and encourage competition by new entrants to the local telecommunications market. The ten-digit requirement was also premised on an all-services overlay, which included a single underlying area code.

First, since passage of the 1996 Federal Telecommunications Act, the California State Legislature enacted Public Utilities Code section 7943. Subsection (b) of § 7943 requires the CPUC to seek from the FCC authority to "order telephone corporations to assign telephone numbers dedicated to wireless and data usage to a separate area code and to permit seven digit dialing within that technology-specific area code and the underlying preexisting area code or codes"[18]. (Emphasis added.) Pursuant to that statutory requirement, the CPUC must seek, and here does so seek, authority from the

[16] See *Second Report and Order and Memorandum Opinion and Order*, FCC 96-333, CC Docket 96-98, Released August 8, 1996, ¶ ¶ 285 – 287; *Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200,* Released December 29, 2000, ¶ 70.

[17] *Id.*

[18] The CPUC first sought authority from the FCC to establish a technology-specific area code in a petition filed with the Commission on April 23, 1999. The FCC responded to that petition in the *Third Report & Order*. (See ¶ 67.)

FCC to allow continued use of seven-digit dialing within each of the existing area codes to be covered by the two new SOs, as well as within each of the SOs. Calls between any of these area codes, that is, across any area code boundary including for calls between the underlying are codes and the SOs, would require 1+ten-digit dialing, as is true today throughout California.

The southern California telecommunications market has changed substantially since the Commission adopted its ten-digit dialing requirement. Most of the carriers in the 310 and 909 markets have been in business for some years and hold many numbers in existing NPAs. The FCC's concern that only new competitors would be required to take numbers in an overlay, while established carriers could draw on plentiful number supplies in the existing area code, has been mitigated just by the passage of time and competitor acquisition of number holdings. Even the wireless carriers would retain some numbers in the 310 and 909 if they have donated numbers to the respective pools in those area codes. (See § II.G, *infra*.) Consequently, a customer with a number in the SO would not necessarily have to dial one-plus-ten digits more often than a customer in the 310 or the 909 NPAs because many prefixes with existing customers will be moved to the new overlay area codes.[19] Certainly, there would be no dialing disparity between wireless carriers in the affected area codes since all of them would be required to draw numbers from the new area codes and would have equal access to those numbers.

[19] The CPUC notes that the wireless industry now offers special pricing plans for "wireless-to-wireless" calling, thus recognizing that many customers call from one wireless number to another. Under the CPUC plan, the 310 wireless customers that move to the SO would still be able to reach other affected wireless customers by dialing only seven digits.

More significantly, the potential benefits substantially outweigh any dialing disparity and competitive concerns that may arise from the implementation of the SOs. The two SOs will bring immediate area code relief to the 310 and 909 NPAs by increasing the available number of prefixes in those area codes and prolonging the life of those NPAs. The SOs will extend the life of the 310 and 909 NPAs by a minimum period of five years based on August 2002 NRUF data. Wireline carriers forecast a need for 112 codes in the next five years in the 909 NPA based on the NRUF Report. The 172 codes in the existing 909 NPA, to be vacated by the cellular/PCS carriers pursuant to our proposal, will more than meet the wireline forecast. In the 310 NPA, wireline carriers forecast a need for 63 codes in the next five years. The 149 codes vacated by the cellular/PCS carriers in the existing 310 NPA will more than meet the wireline forecast.

An SO customer could also reach a larger geographic area with seven-digit dialing, whereas, currently the same customer would need to dial one-plus-ten digits. For example, currently a customer in Malibu in the 310 NPA would dial 1+ 213 – NXX – XXXX to reach a customer in downtown Los Angeles. With the 310 SO covering both 310 and 213 NPAs, the 310 SO customer in Malibu would no longer need to dial one +ten digits to reach another 310 SO customer in downtown Los Angeles. Lastly, because both of the SOs would include multiple area codes rather than a single underlying area code, the life of several other NPAs in southern California would be extended as well and any competitive concerns would be short-lived because the SOs would only last for a period of two years.

F. Rationing

As of the beginning of November 2002, pooling for wireline carriers wil be in place in twenty-four of California's twenty-five area codes. The CPUC has continued to ration NXX codes in most NPAs in pooling in order to satisfy the needs of wireless carriers. In November of this year, however, wireless carriers are scheduled to begin pooling. After wireless carriers begin to pool, the CPUC does not envision a need for rationing to continue as it presently does, though we have not made the decision to eliminate all rationing in all NPAs in California.

Based on these facts, the CPUC proposes that rationing likely would not need to continue in the underlying NPAs once the SO is implemented, nor would rationing be established in the SO.

G. Thousands Block Number Pooling

The purpose of establishing the SOs in California would be to prolong the lives of the underlying NPAs, as well as to use new numbers as efficiently as possible. To that end, a number pool will be established in the SO immediately upon its implementation. Once the SO opens, and until it sunsets two years later, wireless carriers, including paging companies, would draw new numbers in the geographic area covered by the SO only from the new SO.[20] Once the SO sunsets after two years, all carriers can seek numbers in the SO and/or the underlying NPAs.

[20] Paging companies would draw whole NXX codes in the SO, while pooling-capable wireless carriers would draw thousand blocks from the SO pool.

Upon the opening of the SO, if a wireless carrier has donated blocks to the pools in the 310 or 909 NPAs, and another carrier has taken one or more of those donated blocks, the NXX code would not be moved to the SO. If a wireless carrier has donated blocks to the pool(s), but none of those blocks have been drawn from the pool, the entire NXX code would be moved to the SO.

III. CONCLUSION

For the reasons stated, the CPUC requests authority to implement two specialized overlays as described in this petition. We urge the FCC to act on this petition sooner rather than later, so that we can avoid having to split the 310 and 909 area codes.

Respectfully submitted,

GARY M. COHEN.
HELEN M. MICKIEWICZ
LIONEL B. WILSON
SINDY J. YUN

By: /s/ HELEN M. MICKIEWICZ

Helen M. Mickiewicz

505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-1319
Fax: (415) 703-4592

Attorneys for the
Public Utilities Commission
State Of California

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